

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR DECEMBER 16, 2021 @ 7pm

Case Number: B-21- 21 (B266570)

Applicants: Lancaster Craftsman Builders (Representing Mr. and Mrs. Charles Sheehan)

Application: Requesting approval of a Special Exception to permit an Accessory Dwelling Unit (ADU) Greater than 1,000 sq. ft. in accordance with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code. The ADU is 1,085 sq. ft.

Location: Property is described as 7803 Picnic Woods, Middletown, MD 21769, Tax Map 64, Parcel 0010, Tax ID #03162206 Zoned Agricultural (A), Size 25.7 Acres.

Planning Region: Middletown

Zoning District: (AG)

Comp. Plan Designation: Agricultural

Applicable Ordinances: Sec. 1-19-3.210 Special Exceptions
Sec. 1-19-8.321 Accessory Dwelling Units Greater Than 1,000 Square Feet.

Background:

The subject parcel is zoned Resource Conservation (RC) and contains approximately 25.7 acres. Section 1-19-8.321 of the Frederick County Zoning Code states that an Accessory Dwelling Unit (ADU) larger than 1,000 square feet requires a Special Exception from the Board of Appeals.

Proposal

The proposed special exception request is to build one Accessory Dwelling Unit larger than 1,000 square feet on the second floor of a detached garage and workshop structure located on the same property as the principal dwelling. The existing primary dwelling is approximately 6,390 square feet in size. It has a footprint of approximately 3,134 square feet. **The Accessory Dwelling Unit will be approximately 1,085 square feet in size.** The garage and workshop (lower level) has a footprint of approximately 1,064 square feet. All utilities are to be included within the ADU and Access to the door should be separate from the first level entrance.

§1-19-3.210 SPECIAL EXCEPTIONS.

- A. An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

The Applicants state that they are the contractor representing the owners of the property requesting the Special Exception. A letter of approval to allow the contractor to represent the Applicants has been provided.

- B. A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:

1. The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of Chapter 1-19 of the Frederick County Code; and

The Applicants state that the requested ADU is consistent with the Frederick County Comprehensive Plan in that it promotes affordable housing for senior citizens, a growing population in Frederick County. Granting this proposed ADU will encourage the use of accessory dwellings as a stated housing goal.

2. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and

The Applicants state that the proposed ADU will be used strictly as a residence with no business or commercial operation of any kind and in harmony with the surrounding residential homes. Given the size of the property, 25.7 acres, it does not impact the surrounding community.

3. Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and

The Applicants state that the use of the ADU will not add to, increase, or create any noise, fumes, vibration or other ill effects on the neighboring properties, and will be consistent with the surrounding residential use.

4. Parking areas will comply with the off street parking regulations of Chapter 1-19 of the Frederick County Code and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Applicants state that there is ample parking on the property to accommodate the main house and the ADU. The Applicants intend to provide the required parking spot and have plenty of room to do so.

5. The road system providing access to the proposed use is adequate to serve the site for the intended use.

The Applicants state that the ADU will have no adverse effect on the congestion of Picnic Woods Road. The existing access is adequate and safe.

- C. In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ [1-19-8.320](#) through [1-19-8.355](#) of this Code.

The Applicants state that they understand this requirement.

- D. A special exception approval may be granted in accordance with the general and specific requirements enumerated in Sec-1-19-3.220 of the Frederick County Code. The Board of Appeals may, in addition to other requirements imposed under Chapter 1-19 of the Frederick County Code and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of Chapter 1-19 of the Frederick County Code and may be grounds for termination of the special exception.

The Applicants state that they understand this requirement. See the discussion below of §1-19-8.321.

- E. The Board of Appeals shall not grant a special exception unless and until:

1. A written application for a special exception is submitted indicating the section of Chapter 1-19 of the Frederick County Code under which the special exception is sought and stating the grounds on which it is requested; and

The Applicants state that they have complied with this requirement.

2. A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.

The Applicants state that they understand this requirement, and that they are going through this process.

- F. The grant of special exception may include approval of customary incidental accessory uses as reviewed and approved by the Zoning Administrator.

The Applicants state that they understand this requirement.

- G. No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.

The Applicants state that they understand this requirement.

- H. If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

The Applicants state that they understand this requirement.

- I. A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the Applicants, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicants state that they understand this requirement.

§ 1-19-8.321. ACCESSORY DWELLING UNITS GREATER THAN 1,000 SQUARE FEET

The following provisions shall apply to all accessory dwelling units greater than 1000 square feet in the RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD and MX districts.

- A. Only 1 accessory dwelling unit may be created on a property

The property owners of 7803 Picnic Road, are only requesting 1 accessory dwelling unit as described in the submitted Application.

- B. Accessory dwelling units greater than 1000 square feet shall be allowed in single-family dwellings, in an accessory structure, or built as a separate accessory structure, on a single-family lot.

The Applicants state that the ADU will be located in an accessory structure as described in the submitted site plan. It will be located on the second floor of the garage.

- C. The owner of the property must reside in the principal dwelling or in the accessory dwelling unit.

The Applicants state that they intend to live in the main house at 7803 Picnic Wood Road.

- D. There must be at least 1 additional parking space provided for the accessory dwelling unit. On-street parking may be utilized to meet this requirement.

The Applicants state that the ADU is above a garage and a parking spot will be provided for the ADU as required.

- E. An accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of § 1-19-8.240(B).

The Applicants state that they fully understand and agree to the requirements of the Frederick County Zoning Ordinance, Sect. 1-19-8.240, and the proposed Accessory Dwelling Unit meets all the requirements of Sect. 1-19-240(B).

- F. ADUs are intended to serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnb's, or seasonal temporary housing is not permitted.

The Applicants state that the ADU will not be used for any short-term rental or lease—such as extended stay hotels, Airbnb's, or seasonal temporary housing. The main purpose of the ADU is to provide housing for the Applicants' elderly parents.

- G. The owner of the principal residence shall file an annual statement with the Zoning Administrator verifying that the conditions under which the special exception was granted remain the same.

The Applicants state that they will file an annual statement with the Frederick County Zoning Administrator verifying that the conditions under which the special exception was granted remain the same.

- H. If the ownership of the lot changes, the subsequent owner must provide a statement to the Zoning Administrator as to the continuing use and eligibility of the accessory dwelling unit.

The Applicants state that they understand this requirement.

- I. Due to the nature of this use, site plan approval can be granted by the Zoning Administrator in lieu of the Planning Commission.

The Applicants state that they understand this requirement.

- J. An accessory dwelling unit meeting the provisions of § 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section.

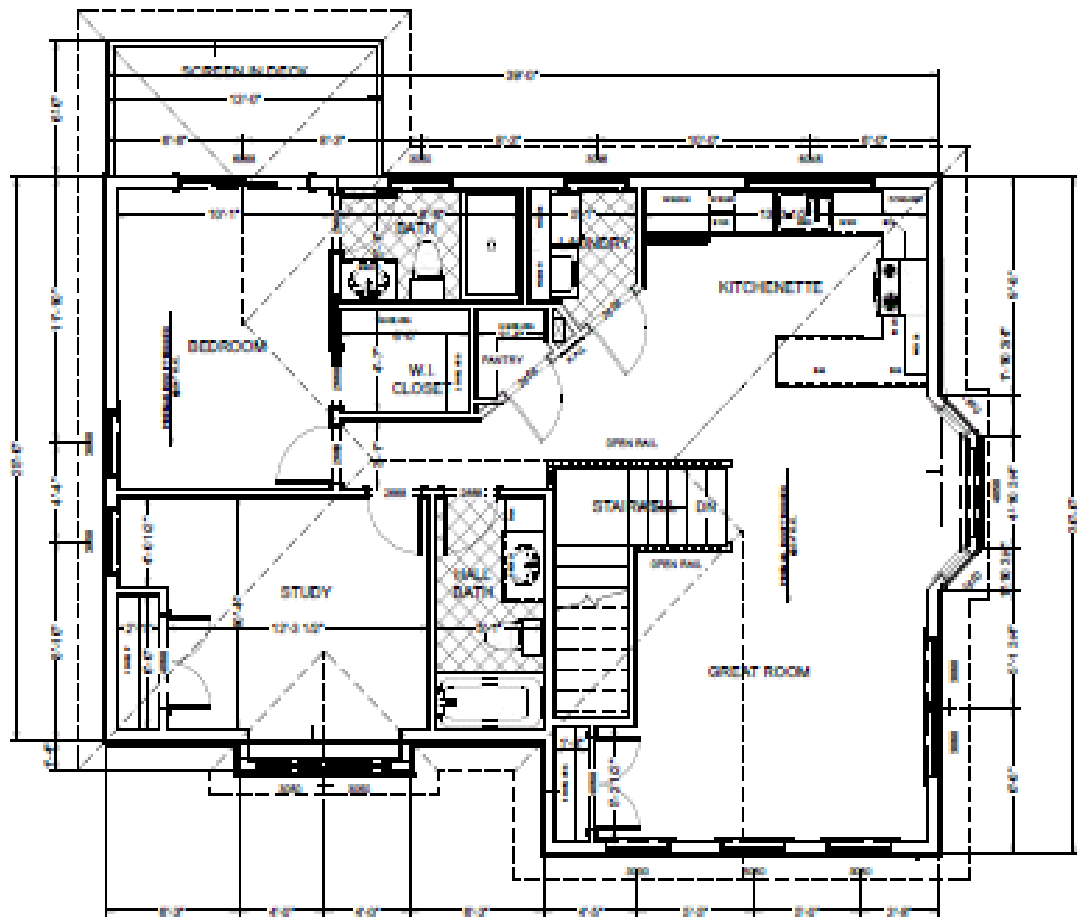
The Applicants states that they understand this requirement.

Action Needed:

Staff requests that the Board consider approval of a Special Exception to permit an Accessory Dwelling Unit (ADU) Greater than 1,000 sq. ft. in accordance with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code. The ADU is 1,085 sq. ft.

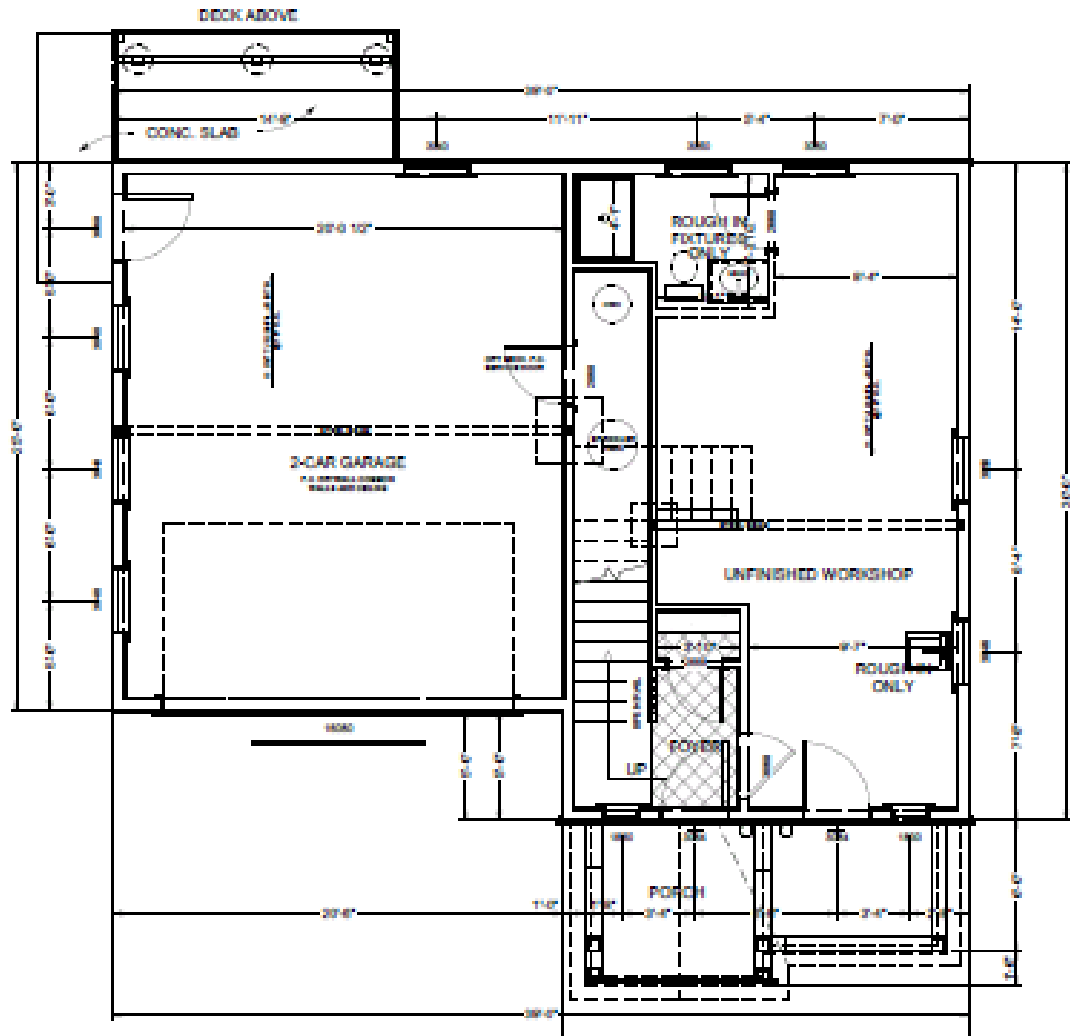
The site plan for Farm Tract 3 shows a property bounded by a road at the top and a creek at the bottom. The plan includes the following features and dimensions:

- Property Boundaries:** The top boundary is a road labeled "R. 100' 00\"
- Internal Dimensions:**
 - Top horizontal distance: 100' 00"
 - Left vertical distance: 100' 00"
 - Right vertical distance: 100' 00"
 - Bottom horizontal distance: 100' 00"
 - Internal horizontal distance: 100' 00"
 - Internal vertical distance: 100' 00"
- Structures and Features:**
 - A house is located in the upper right quadrant.
 - A septic tank is located in the lower right quadrant.
 - A well is located in the lower left quadrant.
 - A driveway is located in the lower right quadrant.
 - A creek is located along the bottom boundary.
- Utility Lines:**
 - Water lines are shown running horizontally across the middle.
 - Sewer lines are shown running vertically on the right side.
 - Gas lines are shown running horizontally across the middle.
 - Electric lines are shown running vertically on the right side.
- North Arrow:** Located in the upper left corner, pointing towards the top of the page.



UPPER LEVEL FLOOR PLAN

1/8"=1'-0"



LOWER LEVEL FLOOR PLAN

1/4"=1'-0"

GIS MAPS



